

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENVIR WATER WORKS, INC.

) CASE NO. 10360

O R D E R

On August 26, 1988, Naydine White applied for Commission approval of her acquisition of a water distribution system currently owned by Kenvir Water Works, Inc.

After reviewing the evidence of record and being sufficiently advised, the Commission finds that:

1. Prior to February 16, 1981, Kenvir Water Works, Inc. ("Kenvir"), a corporation incorporated under the laws of Kentucky, owned and operated a water distribution system in Kenvir, Kentucky, which furnished water to the public for compensation.

2. As of February 16, 1981, Kenvir ceased to operate or maintain its water distribution system.

3. On April 22, 1981 and on July 22, 1981, the Commission ordered Kenvir to resume the operation and maintenance of its water distribution system.¹

¹ Case No. 8148, The Complaint of Mrs. Narda Lewis and others against Kenvir Water Works, Inc., Orders dated April 22, 1981 and July 22, 1981.

4. Kenvir did not resume the operation of its water distribution system.²

5. On October 18, 1983, Kenvir petitioned for relief under Chapter 7 of Title 11, United States Code.³ Subsequently, a trustee was appointed to take possession of Kenvir's assets, including its water distribution system. During his tenure, the trustee took no action to operate or maintain the water distribution system.

6. The water distribution system owned by Kenvir is the only source of water for approximately 50 to 70 residences.

7. Since March 1981 Ms. White, in concert with other residents of Kenvir, Kentucky, has attempted to operate and maintain the water distribution system. She has not, however, charged or attempted to charge rates for the water service provided. Donations provided the operating funds for the water distribution system.

8. On May 10, 1988, the United States Bankruptcy Court authorized the sale of all Kenvir's physical assets, including its water distribution system to Ms. White for the sum of one dollar (\$1.00). The trustee subsequently sold the water distribution system to Ms. White.

² Case No. 8913, Compliance of Kenvir Water Works, Inc. and Jerry, John, Jack and William K. Reynolds with the Orders in Case No. 8148, Order dated October 7, 1983.

³ In Re Kenvir Water Works, Inc., No. 83-00224 (Bank. E.D. Ky.)

9. Ms. White currently operates the water distribution system for the benefit of the residents of Kenvir, Kentucky, and does not collect any compensation for the services provided.

10. Ms. White intends to relinquish ownership, operation and control of the Kenvir water distribution system to Black Mountain Utility District, a nearby water utility, when Black Mountain receives the necessary funding to provide service in Kenvir, Kentucky.

11. KRS 278.010(3)(d) defines a utility as any person "who owns, controls or operates or manages any facility used or to be used in connection with. . . the. . . distribution or furnishing of water to or for the public, for compensation (emphasis added)."

12. As the Kenvir water distribution system has not been providing service for compensation since March 1981, it ceased to meet the statutory definition of a "utility" at that time.

13. As Kenvir is not a utility as defined by KRS 278.010, Commission approval of the transfer of its assets to Ms. White is not required by KRS 278.020.

IT IS THEREFORE ORDERED that:

1. The records of Case Nos. 8148 and 8913 be incorporated by reference into the record of this case.

2. Ms. White's petition is dismissed.

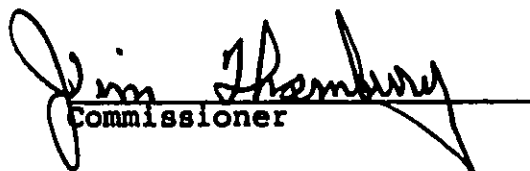
3. Before Ms. White or her successors in interest charge rates for water service provided by the Kenvir water distribution system, they shall seek authority from the Commission to do so.

Done at Frankfort, Kentucky, this 22nd day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director